IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO. 1081 OF 1985

National Textile Corporation
(Delhi) Ltd and Anr. ....Plffs.
vs.
M/s. Indequip Engg. Ltd ....Defnds.

D'souza i/b. Pandya and Poonawala for the plffs.

Ms. K.C. Nichani for the defnds.

CORAM: S.U. KAMDAR, J.

DATE : 8TH AUGUST, 2005.

P.C. :

1. The present suit is filed by the plaintiff for a sum of Rs.17,29,710.00/- as claim outstanding on 18.10.1983 on the foot of account being 13,25,51.24/- at the rate of 21% p.a. from the date of the suit till payment and/or realisation.

2. It is the case of the plaintiff that a mill known as Jam Manufacturing Mills was taken over by Textile Undertakings (Taking over of Management) Act, 1983 and the plaintiff was appointed as a custodian. The said mill has been since nationalised and all the assets and liabilities of the said mill is vested in the plaintiff.

3. It is further the case of the plaintiff that during the period i.e. prior to the taking over of the said management there was due and payable by the defendants to the said erstwhile Jam Manufacturing Mills Ltd a sum of Rs.13,25,518.24/- being at the foot of the account inrespect of the transactions carried on by them with the defendant herein for the goods sold and delivered. In view of the fact that the amount was outstanding the plaintiff by their letter dated 23.10.1984 claimed the said amount alongwith outstanding dues. However the defendant did not reply to the said letter and in view thereof the

present suit is filed for the recovery of the aforesaid amount. The defendants are served. Learned counsel appearing for the defendant states that he has no instructions in the matter. Inspite of the fact that the defendants are served, no written statement is filed. The plaintiff has tendered a compilation of documents which is taken on record and marked Ex.P.1 colly. From the perusal of the documents particularly the extract of the ledger which has been produced by the plaintiff it is clear that the aforesaid amount is due and payable by the defendants to the plaintiffs. In view of the aforesaid I pass the following decree :

> There shall be a decree for a sum of Rs. 17,29,7190/- in favour of the plaintiffs and against the defendants together with interest on the principal amount of Rs.13,25,518.24/- at the rate of 9% p.a. There shall be no

order as to costs.

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